

ARTICLE 9 NON-CONFORMING LOTS, USES AND STRUCTURES

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SECTION 9.0 OVERVIEW

Non-conforming Lots, Uses, and Structures shall be regulated as provided in Chapter 40A, Section 6 of the General Laws and as provided in this Bylaw.

SECTION 9.1 NON-CONFORMING LOTS

- 9.10 Notwithstanding the area and frontage requirements hereof, a detached one-family or two-family residential use or lawful building other than a dwelling may be constructed and used on a lot having less than the prescribed basic minimum area and/or minimum frontage, width, yard or depth requirements (provided that all other regulations of this Bylaw are complied with) if said lot, prior to the date of the adoption of the requirements in question was otherwise exempt from such requirements by the provisions of Chapter 40A, Section 6.
- 9.11 Such a non-conforming lot shall not be further reduced in area or frontage, and if it is subsequently combined with other land in such a way as to reduce or eliminate the non-conformity, it shall not again be subdivided except in accord with this Bylaw.

SECTION 9.2 NON-CONFORMING USES AND STRUCTURES

- 9.20 Any lawful building or structure, or use of a building, structure or land, existing at the time of adoption of this Bylaw or any amendment thereto which does not conform to the regulations thereof may be continued. However, except as hereinafter set forth, a non-conforming building or structure shall not be structurally altered, enlarged, nor reconstructed so as to increase its non-conformity under this bylaw. For the purpose of this section, a structural alteration shall be any change to the exterior of a building or other structure which involves alteration, relocation, enlargement, or reconstruction of walls or other significant elements of the building or structure.
- 9.200 Under Section 11.1, the Building Commissioner may permit the repair, alteration, reconstruction, extension or structural alteration of a lawful, dimensionally non-conforming single family or two family dwelling in any zoning district or a lawful, dimensionally non-conforming building in the B-G, B-L, B-VC, B-N or COM districts, or in either circumstance, a portion thereof, or accessory structures thereto, provided the proposed change does not constitute a change of use under this Bylaw, and at least one of the following conditions is met:
- 9.2000 In the case of a building non-conforming solely because of insufficient lot frontage or lot area, or both, the proposed change shall meet all dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors and maximum height.
- 9.2001 In the case of a dimensionally non-conforming building with sufficient lot frontage and lot area, where said building, or a portion thereof, is non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.

- 9.2002 In the case of a building non-conforming as to lot frontage and/or lot area, and non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.
- 9.201 Where a new or expanded existing non-conforming use is proposed in an existing lawful dimensionally non-conforming building, and no exterior alteration, reconstruction, extension or structural alteration will occur, the permit requirements of Section 3.3 shall apply but no additional Special Permit under Section 9.22 shall be required for the proposed use.
- 9.21 For the purposes of this section a non-conforming use which has been discontinued for twenty four (24) consecutive months shall not be re-established and any future use shall conform to the regulations of this Bylaw.
- 9.22 The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building.
- 9.23 A building or structure devoted to a non-conforming use (whether in whole or in part) or a building or structure non-conforming as to setback, yards, coverage or height, may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot and used as before, provided that such repair or reconstruction is substantially completed within twenty four (24) months of the date of the damage or destruction.

SECTION 9.3 LOCATIONAL REQUIREMENTS IN MIXED USE CENTERS

9.30 Purpose

The purpose of this section is to establish regulations for the location of new additions or enlargements to non-conforming uses and structures, or the creation of separate buildings on the same lot as non-conforming uses and structures in the B-G, B-L, B-VC, B-N and COM Districts. These regulations are intended to promote sound design, enhance the creation of pedestrian-friendly streetscapes and spaces, and foster more functional and successful mixed use properties. Where the provisions of this section conflict with Section 9.1 and 9.2 of this Article, this section shall apply and prevail.

9.31 Non-conforming Structures

- 9.310 Enlargements, Repairs, or Alterations – Non-conforming structures may be permitted to be enlarged, extended, reconstructed, repaired or altered by the Permit Granting Board or Special Permit Granting Authority in conformance with the provisions of Section 9.2 provided, however, that any such enlargement, extension, reconstruction, repair or alteration shall conform to the locational regulations established herein.
- 9.311 Permitted Additions – Where a non-conforming structure is being expanded under Section 9.310, the addition shall abide by the following requirements:
- 9.3110 Front and Rear Additions – Any addition in front of an existing building shall be placed such that its front façade is set at or within the front setback area established by the minimum and maximum front setback. Rear additions may only be undertaken simultaneously with front or side additions, and only where the rear extension is not increasing the degree of existing nonconformity.

- 9.3111 Side Additions for Buildings Located Within the Front Setback Area – For an existing building located at the front setback, any side addition shall also be located at or within the front setback area.
- 9.3112 Side Additions for Buildings Located Outside of the Front Setback Area – For an existing building located at the rear edge or behind the front setback area, any side addition shall be extended forward such that its front façade is located at or within the front setback area.
- 9.312 Permitted New Buildings – The front facades of all separate new buildings being constructed on a site with an existing non-conforming structure shall be located at or within the front setback area.
- 9.313 Modification or Waiver – Any provision of this section may be modified or waived by the Special Permit Granting Authority authorized to act under the applicable section of this Bylaw for compelling reasons of safety, aesthetics, sustainable site design, or historic or environmental preservation needs which serve the purposes of this section.